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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,114	10/10/2000	Michel Alard	9320.112USWO	9339

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EXAMINER

SHARMA, SUJATHA R

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 07/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/673,114

Applicant(s)

ALARD, MICHEL

Examiner

Sujatha Sharma

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim 10 incorporates a reference in the claim and therefore is rejected. See MPEP 2173.05(s).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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4. Claims 1-7,9,11-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Malkamaki [WO 98/02982].

Regarding claims 1,14-16,20 Malkamaki discloses a mobile communication system with a bi-directional channel, main uplink and main downlink channels (see Fig.2, page 6, lines 5-14).

Malkamaki further discloses a method where the mobile communication system provides low or medium speed transmission of signaling and control data and information (see page 2, lines 1-28, page 8, lines 7-12, Fig.6). Malkamaki further discloses a method where additional channel is assigned to downlink to provide high-speed data transmission (see page 3, lines 24-30). See also page 8, line 7-page 9, line 10 and page 12, lines 2-13.

Regarding claims 2 and 11, Malkamaki further discloses a method where all or part of the transmission capacity is allocated dynamically to a mobile user. See page 1, lines 23-32, page 2, lines 25-28, page 3, lines 24-30 and page 4, lines 7-21,page 7, lines 28-32 and page 8, lines 13-18.

Regarding claims 3,12 and 13 Malkamaki further discloses a method where the information allowing the retrieval of data intended for a particular user and carried in the additional channel is transmitted among said signaling and control information of the main downlink channel. See page 2, lines 25-28, page 7, lines 28-32 and page 8, lines 13-18, page 12, lines 2-13.

Regarding claims 4,17 Malkamaki further discloses a method where the main channel and the additional channel have synchronous frame structure. See page 2, lines 10-12, page 8, lines 13-14 and page 12, lines 6-7.

Regarding claims 5 and 6, Malkamaki further discloses a method where the additional channel also provides for transmission of signaling and control information. See page 2, lines 14-16.

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Regarding claim 7, Malkamaki further discloses a method where the signaling and control information on a broadcast channel are used for both main channel and the additional channel.

See page 8, lines 13-18.

Regarding claim 9, Malkamaki further discloses a method of data distribution in the time/frequency space. See page 12, lines 10-13.

Regarding claim 18 and 19, Malkamaki further discloses a reception link including transposition of the received signal to an intermediate frequency and the received signal being said main channel or said additional channel. Further Malkamaki discloses a recovery means of said signaling and control information selectively on the main channel or the said additional channel.

See Figs 1,2,8-10, page 10, line 9-page 11, line 33.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malkamaki [WO 98/02982] in view of Suzuki [EP 786 890 A2].

Regarding claim 8, Malkamaki as treated in claim 1 does not disclose CDMA technology.

CDMA technology is well known in the art and the secondary reference Suzuki teaches the use of CDMA communication resource allocation method. See page 2, lines 5-25.

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Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to use a different communication standard such as the CDMA technology in Malkamaki's invention.

Allowable Subject Matter

7. Claim 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art does not disclose the method of determining the complex envelope of the additional channel as indicated by the equation in the claim.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Spiotta	US 5,428,613	June 27, 1995
Nakano	US 5,446,739	Aug. 29, 1995
Benveniste	US 6,230,016	May 8, 2001
Liu	US 6,226,521	May 1, 2001
Davidson	US 6,483,820	Nov.19, 2002
Baggen	US 5,483,529	Jan 9, 1996

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sujatha Sharma whose telephone number is 703-305-5298. The examiner can normally be reached on Mon-Fri 7.30am - 4.00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 703-305-4778. The fax phone numbers for the organization where this application or proceeding is assigned and for all official communications is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3800.


Sujatha Sharma
July 7, 2003


ERIKA GARY
PATENT EXAMINER